

AMENDED IN ASSEMBLY APRIL 13, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 511

Introduced by Assembly Member De La Torre

February 24, 2009

~~An act relating to Medi-Cal.~~ *An act to add and repeal Chapter 13 (commencing with Section 1799.300) to Division 2.5 of the Health and Safety Code, relating to Medi-Cal.*

LEGISLATIVE COUNSEL'S DIGEST

AB 511, as amended, De La Torre. Medi-Cal: ambulance transportation services providers: quality assurance fees.

Existing law provides for the Medi-Cal program, which is administered by the State Department of Health Care Services, under which health care services, *including medical transportation services*, are provided to qualified low-income persons. *The Medi-Cal program is partially governed and funded under federal Medicaid provisions.*

Existing law establishes a quality assurance fee program for skilled nursing and intermediate care facilities, as prescribed.

~~This bill would declare the intent of the Legislature to enact legislation that would require the State Department of Health Care Services to establish a quality assurance fee program for ambulance providers within the Medi-Cal program.~~

This bill would provide, as a condition of participation in the Medi-Cal program, that there be imposed a quality assurance fee on certain ambulance transportation services providers, to be administered by the Director of Health Care Services. The proceeds from the fee would be required to be deposited into the Medi-Cal Ambulance Transportation Services Providers Fund, which the bill would create.

The bill would provide that moneys in the fund shall, upon appropriation by the Legislature, be available exclusively to enhance federal financial participation for ambulance transportation services under the Medi-Cal program or to provide additional reimbursement to, and to support quality improvement efforts of, ambulance transportation services providers, including increased reimbursement for, and improvement of the quality of, the provision of advanced life support services, as defined. The bill would provide that these provisions are to be implemented only if, and as long as, the state receives federal approval for the fee and legislation is enacted during the 2009–10 Regular Session of the Legislature that makes an appropriation from the fund and from the Federal Trust Fund to fund a Medi-Cal rate increase for ambulance transportation services providers. The bill would provide that it shall remain operative only as long as certain conditions are met and if any one of the conditions is not met, its provisions shall become inoperative and be repealed.

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Chapter 13 (commencing with Section 1799.300)
2 is added to Division 2.5 of the Health and Safety Code, to read:
3
4 CHAPTER 13. AMBULANCE TRANSPORTATION SERVICES
5 PROVIDER UNIFORM QUALITY ASSURANCE FEE
6
7 1799.300. (a) As a condition of participation in the Medi-Cal
8 program, for each ambulance transportation services provider
9 that operates at least one ambulance vehicle certified by the
10 Department of the California Highway Patrol pursuant to Article
11 1 (commencing with Section 1100) of Title 13 of the California
12 Code of Regulations, there shall be imposed each state fiscal year
13 a uniform quality assurance fee if a certified ambulance vehicle
14 is operated by the provider during that state fiscal year, or any
15 portion thereof. The uniform quality assurance fee shall be based
16 upon the revenue from providing ambulance transportation
17 services under the Medi-Cal program that is derived by all
18 providers subject to the fee. The uniform quality assurance fee
19 shall not include the revenue of any exempt Medi-Cal ambulance

1 *transportation services provider that is exempt pursuant to*
2 *paragraph (2) of subdivision (a) of Section 1799.305.*

3 *(b) The amount of the quality assurance fee assessed on*
4 *Medi-Cal ambulance transportation services providers shall be*
5 *based on the aggregate revenue received by providers subject to*
6 *the fee from the provision of Medi-Cal ambulance transportation*
7 *services and shall be calculated in accordance with the*
8 *methodology outlined in subdivision (c), in the request for federal*
9 *approval required by Section 1799.305, and in regulations,*
10 *provider bulletins, or similar instructions.*

11 *(c) The uniform quality assurance fee shall be calculated as*
12 *follows:*

13 *(1) For the 2009–10 fiscal year, the State Department of Health*
14 *Care Services shall project the aggregate revenue for all providers*
15 *subject to the fee received from providing ambulance*
16 *transportation services under the Medi-Cal program. The*
17 *projection shall be based on data that the department collects from*
18 *Medi-Cal ambulance transportation services providers. Once*
19 *determined, the aggregate projected revenue derived by all*
20 *Medi-Cal ambulance transportation services providers subject to*
21 *the fee received from the provision of Medi-Cal ambulance*
22 *transportation services shall be multiplied by 5.5 percent, as*
23 *determined under the approved methodology, and then divided by*
24 *the number of certified ambulance vehicles operated by the*
25 *providers that are subject to the quality assurance fee. The amount*
26 *so determined shall be the quality assurance fee that Medi-Cal*
27 *ambulance services providers subject to the fee are required to*
28 *pay.*

29 *(2) For the 2010–11 to 2015–16, inclusive, fiscal years, the*
30 *department shall project the aggregate revenue for all providers*
31 *subject to the fee received from the provision of ambulance*
32 *transportation services provided under the Medi-Cal program.*
33 *The projection shall be based on data that the department collects*
34 *from Medi-Cal ambulance transportation services providers. Once*
35 *determined, the projected aggregate revenue derived by all*
36 *Medi-Cal providers subject to the fee received from the provision*
37 *of Medi-Cal ambulance transportation services shall be multiplied*
38 *by 5.5 percent, as determined under the approved methodology,*
39 *and then divided by the number of certified ambulance vehicles*
40 *operated by the providers that are subject to the fee. The amount*

1 so determined shall be the quality assurance fee that Medi-Cal
2 providers subject to the fee are required to pay, but in no case
3 shall the fees calculated pursuant to this paragraph, taken together
4 with applicable licensing fees, exceed the amounts allowable under
5 federal law.

6 (d) If there is a delay in the implementation of this article for
7 any reason, including a delay in the approval of the quality
8 assurance fee and methodology by the federal Centers for Medicare
9 and Medicaid Services, in the 2009–10 fiscal year or in any other
10 fiscal year, all of the following shall apply:

11 (1) A provider subject to the fee may be assessed the amount
12 the provider would be required to pay to the department if the
13 methodology were already approved, but shall not be required to
14 pay the fee until both the following occur:

15 (A) The methodology is approved.

16 (B) Medi-Cal rates are increased in accordance with paragraph
17 (2) of subdivision (a) of Section 1799.306 and the increased rates
18 are paid to Medi-Cal ambulance transportation services providers.

19 (2) The department may retroactively increase and make
20 payment of rates to Medi-Cal ambulance transportation services
21 providers.

22 (3) Providers that have been assessed a fee by the department
23 shall pay the fee assessed within 60 days of the date rates are
24 increased in accordance with paragraph (2) of subdivision (a) of
25 Section 1799.306 and paid to those providers.

26 (4) The department shall accept a provider's payment even if
27 the payment is submitted in a subsequent rate year than the rate
28 year in which the fee was assessed.

29 1799.301. (a) The quality assurance fee, as calculated pursuant
30 to Section 1799.300, shall be paid by the providers to the
31 department on an annual basis on or before the last day of the
32 fiscal year following the fiscal year during which the fee was
33 assessed, except as provided in subdivision (d) of Section 1799.300.

34 (b) A provider that is operating a certified ambulance vehicle,
35 as defined by the Department of the California Highway Patrol,
36 for the first time, and is participating in the Medi-Cal program,
37 shall comply with subdivision (a), but it shall only be required to
38 pay a pro rata quality assurance fee consistent with the time that
39 it operated the certified ambulance vehicle.

1 (c) When a provider fails to pay all or part of the quality
2 assurance fee within 60 days of the date that payment is due, the
3 department may deduct the unpaid fee and interest owed from any
4 Medi-Cal reimbursement payments owed to the provider until the
5 full amount of the fee and interest are recovered. Any deduction
6 made pursuant to this subdivision shall be made only after the
7 department gives the provider written notification. Any deduction
8 made pursuant to this subdivision may be deducted over a period
9 of time that takes into account the financial condition of the
10 provider.

11 (d) If all or any part of the quality assurance fee remains unpaid,
12 the department may assess a penalty on the provider equal to 50
13 percent of the unpaid fee amount.

14 1799.302. (a) The Director of Health Care Services, or his or
15 her designee, shall administer this article.

16 (b) The director may adopt regulations as are necessary to
17 implement this article. These regulations may be adopted as
18 emergency regulations in accordance with the rulemaking
19 provisions of the Administrative Procedure Act (Chapter 3.5
20 (commencing with Section 11340) of Part 1 of Division 3 of Title
21 2 of the Government Code). For purposes of this article, the
22 adoption of regulations shall be deemed an emergency and
23 necessary for the immediate preservation of the public peace,
24 health and safety, or general welfare. The regulations shall include,
25 but need not be limited to, any regulations necessary for any of
26 the following purposes:

27 (1) The administration of this article, including the proper
28 imposition and collection of the quality assurance fee. The costs
29 associated with the administration of this article are not to exceed
30 the amounts reasonably necessary to administer this article.

31 (2) The development of any forms necessary to obtain required
32 information from providers subject to the quality assurance fee.

33 (3) To provide details, definitions, formulas, and other
34 requirements.

35 (c) As an alternative to subdivision (b), and notwithstanding
36 the rulemaking provisions of Chapter 3.5 (commencing with
37 Section 11340) of Part 1 of Division 3 of Title 2 of the Government
38 Code, the director may implement this article, in whole or in part,
39 by means of a provider bulletin, or other similar instructions,
40 without taking regulatory action, provided that no such bulletin

1 or other similar instructions shall remain in effect after July 31,
2 2012. It is the intent of the Legislature that the regulations adopted
3 pursuant to subdivision (b) be adopted on or before July 31, 2012.

4 1799.303. The department shall deposit the quality assurance
5 fee collected pursuant to this article in the Medi-Cal Ambulance
6 Transportation Services Providers Fund, which is hereby created
7 in the State Treasury. Notwithstanding Section 16305.7 of the
8 Government Code, the fund shall also include interest and
9 dividends earned on moneys in the fund.

10 1799.304. Moneys in the Medi-Cal Ambulance Transportation
11 Services Providers Fund shall, upon appropriation by the
12 Legislature, be available to exclusively enhance federal financial
13 participation for ambulance transportation services under the
14 Medi-Cal program or to provide additional reimbursement to, and
15 to support quality improvement efforts of, ambulance
16 transportation services providers, including increased
17 reimbursement for, and improvement of the quality of, the provision
18 of advanced life support services as defined in Section 1797.52.

19 1799.305. (a) (1) The department shall request approval from
20 the federal Centers for Medicare and Medicaid Services for the
21 implementation of this article.

22 (2) The director may alter the methodology specified in this
23 article, to the extent necessary to meet the requirements of federal
24 law or regulations or to obtain federal approval. The director may
25 also add categories of exempt ambulance transportation services
26 providers or apply a nonuniform fee to ambulance transportation
27 services providers that are subject to the fee in order to meet
28 requirements of federal law or regulations. The director may
29 exempt categories of ambulance transportation services providers
30 from the fee, if necessary to obtain federal approval.

31 (b) The department shall make retrospective adjustments, as
32 necessary, to the amounts calculated pursuant to Section 1799.300
33 in order to ensure that the aggregate quality assurance fee for any
34 particular state fiscal year does not exceed 5.5 percent of the
35 aggregate revenue derived by providers subject to the fee from the
36 provision of ambulance transportation services under the Medi-Cal
37 program.

38 1799.306. (a) This article shall be implemented only if, as
39 long as, and both of the following conditions are met:

1 (1) *The state receives federal approval of the quality assurance*
2 *fee from the federal Centers for Medicare and Medicaid Services.*

3 (2) *Legislation is enacted during the 2009–10 Regular Session*
4 *of the Legislature that makes an appropriation from the Medi-Cal*
5 *Ambulance Transportation Services Providers Fund and from the*
6 *Federal Trust Fund to fund a Medi-Cal rate increase for*
7 *ambulance transportation services providers.*

8 (b) *This article shall remain operative only as long as all of the*
9 *following conditions are met:*

10 (1) *The federal Centers for Medicare and Medicaid Services*
11 *continues to allow the use of the provider assessment provided in*
12 *this article.*

13 (2) *The Medi-Cal rate increase referenced in paragraph (2) of*
14 *subdivision (a) remains in effect.*

15 (3) *The full amount of the quality assurance fee assessed and*
16 *collected pursuant to this article remains available for the purposes*
17 *specified in Section 1799.304 and for related purposes.*

18 (c) *If all of the conditions in subdivision (a) are met, this article*
19 *is implemented, and subsequently, any one of the conditions in*
20 *subdivision (b) is not met, on and after the date that the director*
21 *executes a declaration that makes the determination that any*
22 *condition is not met, this article shall become inoperative*
23 *notwithstanding that the condition or conditions subsequently may*
24 *be met.*

25 (d) *Notwithstanding subdivisions (a), (b), and (c), in the event*
26 *of a final judicial determination made by any state or federal court*
27 *that is not appealed, or by a court of appellate jurisdiction that is*
28 *not further appealed, in any action by any party, or a final*
29 *determination by the administrator of the federal Centers for*
30 *Medicare and Medicaid Services, that federal financial*
31 *participation is not available with respect to any payment made*
32 *under the methodology implemented pursuant to this article*
33 *because the methodology is invalid, unlawful, or contrary to any*
34 *provision of federal law or regulations, or of state law, this article*
35 *shall become inoperative.*

36 (e) *This article shall be repealed on the date that it becomes*
37 *inoperative.*

38 ~~SECTION 1. It is the intent of the Legislature to enact~~
39 ~~legislation that would require the State Department of Health Care~~

- 1 Services to establish a quality assurance fee program for ambulance
- 2 providers within the Medi-Cal program.

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